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February 14, 2002

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William F. Caton, Acting Secretary
Federal Communications Commission
C/o Vistronix, Inc.
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Washington, DC 20002

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FEB 14 2002

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

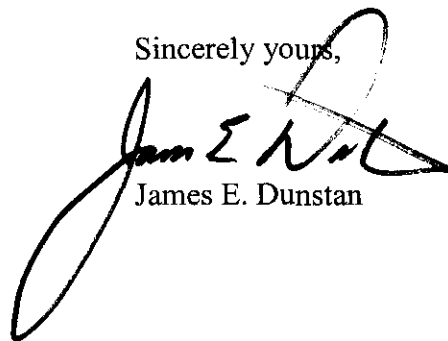
Re: Petition for Rule Making
Meredith Corporation
Television Station WHNS, Asheville, North Carolina

Dear Mr. Caton:

Transmitted herewith on behalf of Meredith Corporation, licensee of Television Broadcast Station WHNS, Asheville, North Carolina, are an original and four copies of its "Petition for Rule Making" to amend the Table of Television Allotments under Section 73.606(b).

If there are any questions concerning this matter, kindly communicate directly with this office.

Sincerely yours,



James E. Dunstan

JED:cl
Enclosures

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MNB
02-32

Before The
Federal Communications Commission
Washington, D.C. 20554

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FEB 14 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter Of)
)
Amendment of Section 73.606(b)) MM Docket No. RM –
Table of Allotments)
Television Broadcast Stations)
(Asheville, North Carolina and)
Greenville, South Carolina))
)

TO: The Chief, Allocations Branch
Policy & Rules Division
Mass Media Bureau

Petition For Rule Making

Meredith Corporation (“Meredith”), licensee of Television Broadcast Station WHNS, Asheville, North Carolina, by its attorneys and pursuant to Section 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §307(b), and Section 1.420 of the Commission’s rules and regulations, 47 C.F.R. § 1.420, hereby requests that the Commission amend the Table of Television Allotments (Section 73.606(b)) as follows:

Delete UHF Channel 21 (and paired digital Channel 57) at Asheville, North Carolina, and allot UHF Channel 21 (and paired digital Channel 57) to Greenville, South Carolina.

Further, pursuant to the Commission’s rules, WHNS’ licenses would be modified to specify the new city of license without allowing competing applications.¹ As

¹ *Modification of FM and TV Authorizations*, 4 FCC Rcd 4870, 4873 (1989); *aff’d Modification of FM and TV Authorizations (Reconsideration)*, 5 FCC Rcd 7094 (1990).

demonstrated below, grant of this Petition will better effectuate the purposes underlying the allotment table by recognizing the true nature of the Greenville, South Carolina television market, and allow Meredith's WHNS to better serve its viewers. In support of this Petition, Meredith submits:

I. Introduction

The Commission's obligations under Section 703(b) of the Communications Act of 1934, as amended, (the "Act") is to provide a "fair, efficient and equitable distribution of radio service" to the various cities and communities across the country.² The priorities for distributing television stations equitably across the country are:

(1) to provide at least one television service to all parts of the United States, (2) to provide each community with at least one television broadcast station, (3) to provide a choice of at least two television services to all parts of the United States, (4) to provide each community with at least two television broadcast stations, and (5) to assign any remaining channels to communities based on population, geographic location, and the number of television services available to the community from stations located in other communities.³

Currently, the stations assigned to the Greenville television market are allocated to the following cities:

Asheville, NC	WASV (UPN); WHNS (FOX) WLOS (ABC); WUNF (Ed.)
Greenville, SC	WGGS (Ind.); WNTV (Ed.) WYFF (NBC)

² There is no doubt that the term "radio" appearing in the statute also applies to the allocation of television stations as well.

³ *Sixth Report and Order*, 41 FCC 148, 167 (1952) ("Television Allocation Priority Policy"); *affirmed in Modification of FM and TV Authorizations (Reconsideration)*, 5 FCC Rcd 7094, 7098, n.4 (1990).

Spartanburg, SC	WSPA (CBS), WRET (Ed.)
Anderson, SC	WBSC (WB)
Greenwood, SC	WNEH (Ed.)
Toccoa, GA	WNEG (CBS)

The market hosts eight commercial and four non-commercial television stations.

There are far from twelve independent voices, however. Three of the four non-commercial stations (WRET, WNTV, and WNEH) are licensed to the South Carolina Educational Television Commission. The Glencairn station (WBSC⁴, WB affiliate), is LMA'ed to Sinclair, which also owns WLOS (ABC affiliate) in the market. The Bureau recently denied Sinclair's attempt to acquire WBSC as part of its global takeover of Glencairn, noting that there were insufficient independent voices in the market to allow such an acquisition.⁵ The Commission further fined both Glencairn and Sinclair \$40,000 each for unauthorized transfer of control, further evidencing the lack of independent voices in the Greenville market.⁶ Media General owns WSPA and WNEG, and is seeking to purchase WASV.⁷

Although the allocation of four stations to Asheville, NC and three stations to Greenville, SC may have made sense in the past, the changing dynamics of the Greenville television market call for a change of city of license of WHNS to South Carolina,

⁴ WBSC's former call letters were WFBC.

⁵ *Edwin L. Edwards*, FCC 01-336, released 12/10/01, ¶ 36.

⁶ *Id.* at ¶ 29.

⁷ *See In re Application of Pappas Telecasting of Carolinas*, File No. BALCT-20010727ABS, DA 02-103 (MMB, released January 15, 2002), petition for reconsideration pending.

consistent with the “fair, efficient and equitable distribution of radio service” called for in Section 307(b).

II. Greenville is the Dominant Center of the Market

In 1970, Buncombe County, North Carolina, which contains Asheville, had a population of 145,000. Greenville County, South Carolina, housing Greenville, had a population of 240,774. Thirty years later, the population gap has widened. According to the Year 2000 census, Buncombe County’s population had increased to 196,274, while Greenville County’s population rose to 358,936, almost twice that of Buncombe County.⁸ Twice as many people moved to Greenville County in that period compared to Buncombe County.⁹ Today, sixty-six (66) percent of the television households in the Greenville market now reside in South Carolina.

In addition to Greenville being the population center of the market, it also has grown to become the economic center of the market as well. In discussing the politics of South Carolina, one commentator described Greenville as “a burgeoning metropolitan area infused with new foreign investment.”¹⁰ According to 1997 government census figures, the amount of retail trade conducted in the Greenville MSA (\$9.2 billion in revenues) dwarfs that conducted in the Asheville MSA (\$2.2 billion in revenues).¹¹ Greenville County generated \$4.4 billion in 1997 retail revenues, while Buncombe

⁸ See Exhibit A.

⁹ *Id.*

¹⁰ See <http://www.byu.edu/outsidemoney/1998/SCSen.htm> (discussion of 1998 South Carolina Senatorial campaign).

¹¹ See Exhibit B.

County, home of Asheville, generated less than half that amount, \$2.2 billion.¹² In three other economic categories tracked by the Census Bureau (revenues generated by business engaged in arts and recreation, accommodation and food services, and professional, scientific and technical services), the disparity between the two local economies is almost staggering.¹³ Within these three categories, the Greenville MSA generates eight times the revenues compared to the Asheville MSA (\$4.9 billion to \$575 million). The same is true when viewed at the city level, where these three categories of businesses generate \$3.4 billion in revenues in Greenville, but only \$471 million in Asheville.

When retail trade, professional services, accommodation and food, and arts and entertainment are combined, the city of Greenville generates more than twice the economic activity of Asheville (\$5.4 billion to \$2.2 billion in revenues). Yet Asheville has more television stations allocated to it than does Greenville.

III. WHNS is Considered A South Carolina Station, Not a North Carolina Station

WHNS serves the entire market with its local news and public affairs programming, as well as being the FOX affiliate for the market. It is, however, considered by most people to be a South Carolina station, and not a North Carolina station. As discussed above, with most of the households in the market residing in South Carolina, and the city of Greenville generating eight times the economic activity of Asheville, virtually all of WHNS' local advertising revenues come from South Carolina-

¹² *Id.*

¹³ It is from these four categories that television stations can expect to receive most of the local television advertising, as they describe businesses which market directly to consumers.

based businesses.¹⁴ Those advertisers buy time on WHNS not only because it serves the market, but because they consider WHNS to serve South Carolina, and the environs of Greenville.

WHNS General Manager Ray Mirabella was recently elected to the Board of Directors of the South Carolina Broadcasters Association – even though his station technically is licensed to North Carolina. Even other broadcasters consider WHNS to be a South Carolina station.

Changing WHNS' city of license to Greenville, South Carolina, will only memorialize what the market has already decided. More important, however, the change will allow WHNS to better compete in a market where fully half of the stations are not independently owned and operated, because of lack of advertising revenues available.

IV. Legal Basis of Changing WHNS' City of License to Greenville, South Carolina

As demonstrated below, the Commission can change the city of license of WHNS from Asheville, North Carolina, to Greenville, South Carolina, consistent with 307(b), as well as the allocation priorities listed above.

¹⁴ See Declaration of Ray Mirabella, General Manager of WHNS. Mr. Mirabella also points out that North Carolina advertisers consider WHNS to be a South Carolina station, and therefore do not spend any significant advertising dollars on the station.

A. The Change Can Be Made Consistent With FCC Engineering Rules

The attached Engineering Statement of Joe Snelson, Director of Engineering for Meredith Corporation, demonstrates that the change can be made consistent with all present signal and interference requirements. Specifically:

- 1) The change of city of license will not involve a change of transmission facilities, and therefore will cause no new interference to any television station;
- 2) From its present transmission location, WHNS will be able to place a City Grade Contour over the city of Greenville, South Carolina with both its analog and digital signals, in compliance with Section 73.685 and Section 73.625.¹⁵

B. Asheville Will Remain Adequately Served

A change in city of license for WHNS will not deprive Asheville of any local service. As discussed above, WHNS contemplates no change in its transmitter location, or the strength or quality of signal it will place over Asheville, North Carolina.¹⁶ As such, there will be no loss of service to Asheville.¹⁷ In addition, Meredith commits to continuing service to Asheville and its environs by way of WHNS' local news and other

¹⁵ 47 C.F.R. Sec. 73.685, 73.6245.

¹⁶ The maps attached to the Snelson Engineering Statement make clear that Asheville will continue to receive a City Grade or better signal from both WHNS and WHNS-DT.

¹⁷ The Commission has noted that a change of community of license which requires no change in transmitter site, channel, or channel class raises the fewest regulatory concerns. 4 FCC Rcd at 4873-74.

local public affairs programming. In short, Meredith has no intention of abandoning Asheville.¹⁸

Moreover, as discussed above, Asheville currently has more television stations than does Greenville. Even after changing WHNS' city of license to South Carolina, Asheville will continue to have two commercial stations (WASV, and WLOS), and one non-commercial television station (WUNF) allotted to it. The Commission therefore need not be worried about a loss of first or second service to Asheville.¹⁹ Nor need the Commission worry that this change would result in the "shifting of service from an underserved rural to a well-served urban area."²⁰ If anything, currently Asheville is "overserved," since it has been allocated four stations, while Greenville, in a much more densely populated area, has been allocated only three.

C. No Other Priorities Are Negatively Impacted

Allowing WHNS to change its city of license from North Carolina to South Carolina also will not negatively impact any of the other "priorities" established by the Commission. Asheville will not lose first local service. Greenville will not gain first local service. The Commission, however, does not require that a licensee demonstrate an

¹⁸ The Commission has previously concluded that it will not consider the degree of loss of service to a community, unless such loss would constitute a loss of first or second service. *Modifications of FM and TV Authorizations*, 4 FCC Rcd at 4873.

¹⁹ *Id.* (petitions will not be considered where change of city of license will result in loss of only local service).

²⁰ *Modification of FM and TV Authorizations (Reconsideration)*, 5 FCC Rcd at 7096.

advantage under any of the “higher” priorities, however, in order to grant a city of license change.^{21/}

D. The Change Will Result In a “Preferential Arrangement of Allotments”

When the Commission amended its rules in 1989 to clarify when it would allow licensees to change cities of license, it indicated that it would be flexible in its analysis of such proposed changes, since stations are in the best position to determine how to best serve their markets.²² It indicated that it would evaluate such petitions under its priorities, and grant those which “would result in a preferential arrangement of allotments.”²³ At the same time, the Commission clearly indicated that it was not wedded to its existing table of allotments, and that changes could be made for many reasons, so long as they did not result in denial of service, met with all applicable interference requirements, and generally advanced the “fair, efficient and equitable distribution of radio service.”²⁴

Meredith submits that the present Petition does just that. WHNS struggles in a difficult television market, where it is faced with multiple competitors who own or control two or more stations in the market. In order to remain competitive in the market,

²¹ See, e.g., *Grants & Milan, New Mexico*, DA 00-2375 (released October 20, 2000)(change granted when only “fourth” priority – second local service – was implicated).

²² *Modifications of FM and TV Authorizations*, 4 FCC Rcd at 4873; see also *Reconsideration Order*, 5 FCC Rcd at 7098, n.4 (the Commission will apply the priorities to television changes “in a more flexible fashion than the FM priorities due to the recognition that television is a more regional service”).

²³ 4 FCC Rcd at 4873.

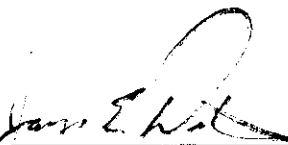
²⁴ *Id.* at 4874.

WHNS needs to solidify its advertising base, a base that resides predominantly in South Carolina.

WHEREFORE, Meredith respectfully requests that the Commission issue a Notice of Proposed Rule Making seeking comment on whether the table of allotments should be amended to delete analog Channel 21 and digital Channel 57 from Asheville, allocate those channels to Greenville, and modify Meredith's licenses for WHNS to specify Greenville as the city of license for WHNS and WHNS-DT.

Respectfully submitted,

MEREDITH CORPORATION

A handwritten signature in dark ink, appearing to read "James E. Dunstan", is written over a horizontal line.

James E. Dunstan
Its Attorneys

GARVEY, SCHUBERT & BARER
1000 Potomac Street N.W., Fifth Floor
Washington, D.C. 20007
202-965-7880

February 14, 2002

DECLARATION

Ray Mirabella, declares, under penalty of perjury, that the following is true and correct:

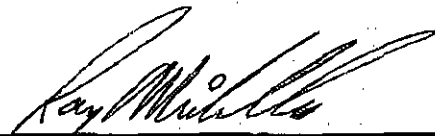
1. I am Vice President and General Manager of Meredith Corporation's television station WHNS, licensed to Asheville, North Carolina (FIN – 72300), in the Greenville-Spartanburg, SC-Asheville, NC-Anderson, SC television market ("Greenville market").
2. I have reviewed the attached "Petition For Rule Making" and the attachments thereto, and state that the facts contained therein are true and correct to the best of my knowledge and information.
3. WHNS, although it is licensed to Asheville, North Carolina, is considered by most of our advertisers to be a South Carolina station. Most of the households in the Greenville market are located in South Carolina, and the vast majority of economic activity and local advertising dollars come from South Carolina businesses in the market.
4. Those advertisers recognize WHNS as a South Carolina station, notwithstanding its allocation to a North Carolina community.
5. WHNS draws virtually no local advertising dollars from North Carolina, where advertisers also view us as a South Carolina station. With the economy shifting to Greenville and other surrounding South Carolina communities, it is becoming more and more difficult to compete in the market where we are technically licensed to another state.

6. I was recently elected to the Board of Directors of the South Carolina Broadcasters Association, in recognition of my position at a station that serves South Carolina.

I hereby verify that all statements contained herein and in the attached Petition for Rule Making are true to the best of my knowledge, information and belief formed after reasonable inquiry, that the Petition is well grounded in fact, and that it is not interposed for any improper purpose.

Date:

2/14/02



Ray Mirabella
General Manager
WHNS
Asheville-Greenville

Engineering Statement
January 2, 2002
Meredith Corporation, WHNS TV

This statement supports a petition for rulemaking filed by Meredith Corporation, licensee of WHNS, Asheville, North Carolina.

Meredith is petitioning to change the television Table of Allotments, § 73.606(b), by deleting the allotment for channel 21+ Asheville, North Carolina and adding channel 21+ to Greenville, South Carolina.

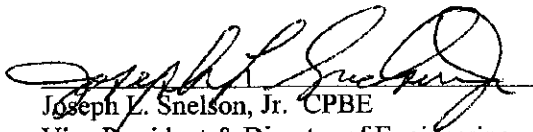
Meredith also petitions to change the digital television Table of Allotments, § 73.622(b), by deleting the allotment for channel 57, Asheville, North Carolina and adding DTV channel 57 to Greenville, South Carolina.

No change in the location of the current transmitter facilities will be required to place the required minimum principal community field strength for analog and digital operations over the city limits of Greenville, South Carolina.

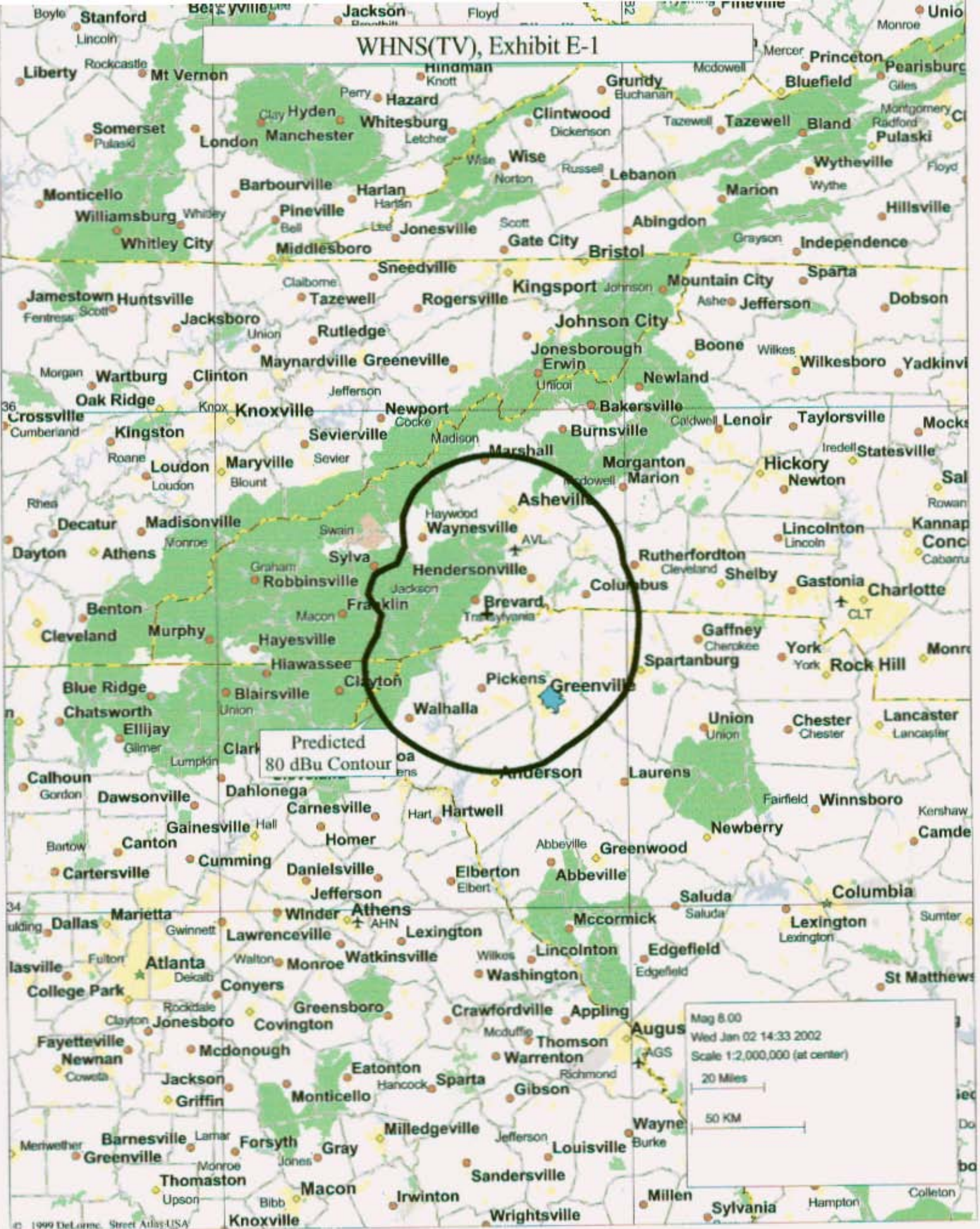
Meredith was granted a construction permit, BPCT-20000927ACA, to modify the facilities of WHNS by changing its main antenna. This construction has been completed and an application for license has been filed with the Commission and file number BLCT-20010529ADB was assigned. The attached exhibit, E-1, shows the predicted principal community coverage contour (80 dBu) for the modified facilities. This exhibit demonstrates that WHNS will more than adequately place a predicted principal community contour over the entire city limits of Greenville, South Carolina.

Additionally, Meredith was granted a construction permit, BPCDT-19991018AAX, to build the digital transmission facilities for WHNS-DT. The attached exhibit, E-2, shows the predicted principal community coverage contour (48 dBu, to become effective 12/31/04) for WHNS-DT facilities. This exhibit demonstrates that WHNS-DT will more than adequately place a predicted principal community contour over the entire city limits of Greenville, South Carolina.

The attached engineering exhibits demonstrate that WHNS more than adequately places principal community service contours for analog and digital operations over the city of Greenville, South Carolina and fully complies with § 73.685 and § 73.625 with respect to coverage.


Joseph L. Snelson, Jr. CPBE
Vice President & Director of Engineering
Broadcasting Group, Meredith Corporation

WHNS(TV), Exhibit E-1



WHNS-DT, Exhibit E-2

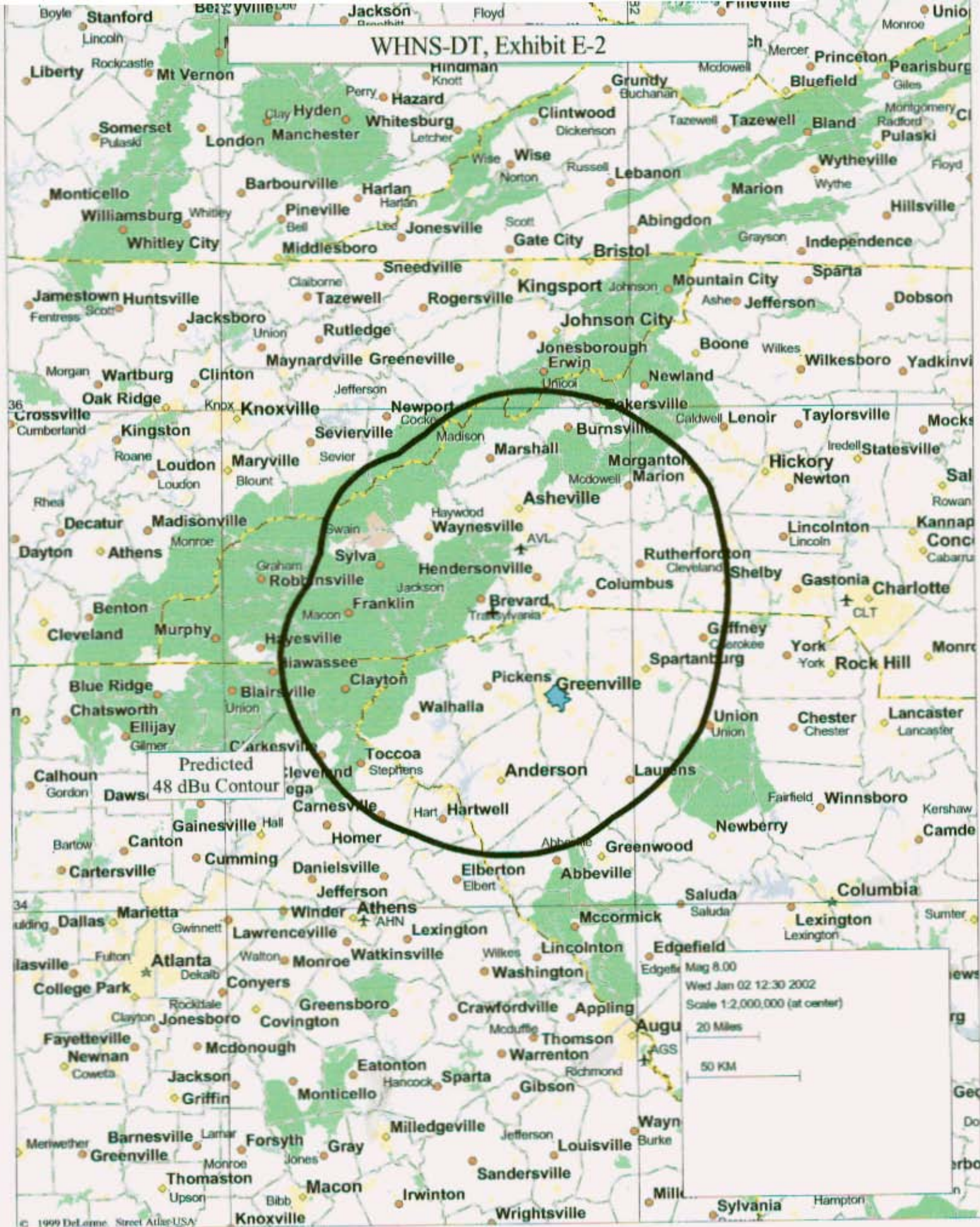


Exhibit A

Comparison of Population Trends In Asheville, NC and Greenville, SC

Comparison of Population Trends in Asheville, NC and Greenville, SC

	1970	1975	1980	1990	1999	Total Change	Percent Change
Asheville				66,428	65,974	-454	-0.68%
Buncombe County	145,056	153,400	160,934	174,357	194,456	51,218	34.06%
Greenville				58,787	56,873	-1,914	-3.26%
Greenville County	240,774	269,900	287,896	320,127	353,986	118,162	47.02%

Source: U.S. Census data. See, e.g., http://eire.census.gov/popest/archives/county/co-99-2/99C2_37.txt

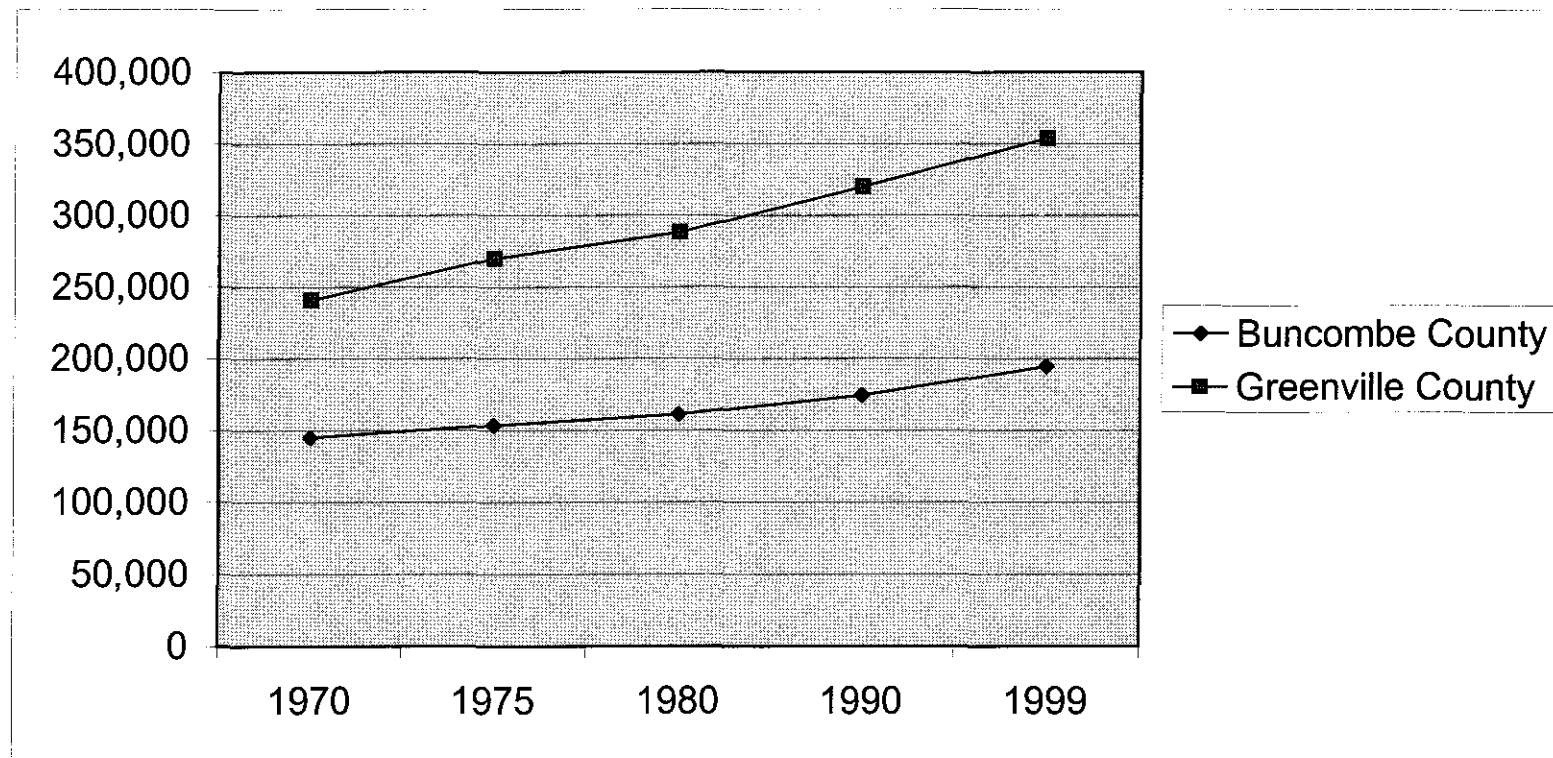


Exhibit B

Economic Activity in the Greenville Television Market

**Economic Activity in the Greenville Television Market
(1997 numbers, released as of November, 1999)**

	Retail Trade		Professional, Scientific & Technical		Accommodations & Food Services		Arts, Entertainment And Recreation	
	Number	Sales (\$1,000)	Number	Sales (\$1,000)	Number	Sales (\$1,000)	Number	Sales (\$1,000)
South Carolina								
Greenville MSA	4,316	\$9,178,928	1719	\$3,678,604	1844	\$1,033,896	271	\$218,349
Greenville County	1,852	\$4,496,335	1040	\$3,373,958	818	\$506,621	129	\$118,034
Greenville City	812	\$2,011,148	617	\$3,116,302	342	\$237,982	43	\$31,547
North Carolina								
Asheville MSA	1,187	\$2,242,443	477	\$174,900	530	\$340,370	73	\$61,374
Buncombe County	1,136	\$2,193,417	466	\$174,069	506	\$334,308	68	\$59,508
Asheville	794	\$1,762,033	353	\$152,337	356	\$267,980	38	\$51,329

	Total for Professional services, Accommodation & Food and Entertainment		Total Economic Activity All Four Categories
	Number	Sales	Sales (\$1,000)
South Carolina			
Greenville MSA	3,834	\$4,930,849	\$14,109,777
Greenville County	1,987	\$3,998,613	\$8,494,948
Greenville City	1,002	\$3,385,831	\$5,396,979
North Carolina			
Asheville MSA	1,080	\$576,644	\$2,819,087
Buncombe County	1,040	\$567,885	\$2,761,302
Asheville	747	\$471,646	\$2,233,679

Source: U.S. Department of Commerce, Economic and Statistics Administration, U.S. Census Bureau
See http://www.census.gov/epcd/www/97EC_SC.HTM, http://www.census.gov/epcd/www/97EC_NC.HTM